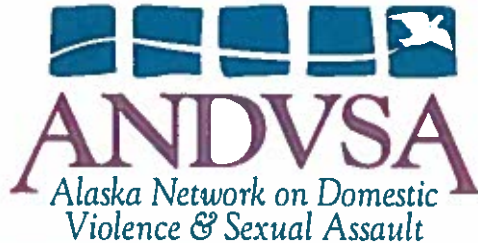


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April 10, 2014

Honorable Wes Keller, Chair
House Judiciary Committee
State Capitol, Room 120
Juneau, AK 99801

Re: HB 315 - Jury Nullification

Dear Chairman Keller:

On behalf of the 23 member programs and affiliates that provide direct, confidential services to victims of domestic violence and sexual assault in Alaska, we are writing to provide comments on HB 315 – Jury Nullification. We ask that these comments be made part of the bill file.

In Section 1, subsection (C) of this bill, under the language “notwithstanding any other law”, a defendant would be allowed to introduce evidence or testimony to the jury to support their claim for nullification. This provision would eliminate critical safety and privacy issues for victims where a defendant would not be bound by existing statutes, court rules or rules of evidence, policy decisions and laws that this legislature has played a significant role in creating. This is a great concern for us.

In particular, under this provision, it would appear that a defendant could subpoena the testimony of a victim counselor, disregarding the statutory victim-counselor privilege that has existed in Alaska statute for almost a quarter of a century (1992). This would have a chilling effect, not only on victims seeking services which would no longer be confidential, but would directly impact the ability of our programs to receive critically needed federal funding because they would be in violation of the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA); both of which expressly prohibit disclosure of confidential information by funded programs. This bill, if passed, would place victim counsellors in the untenable position of either refusing to disclose the information (likely facing contempt charges) or being forced to comply with disclosing this information in violation of federal law and risk losing funding.

Second, without the ability to assure victims that they are receiving confidential services, victims will stop seeking shelter ultimately leading to more crime, greater injury and greater likelihood of lethality; negatively impacting public safety throughout the state. Just as we have started turning the tide on this epidemic, this bill, if passed, would turn us back decades.

Member Programs

Anchorage AWAIC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE
Fairbanks IAC Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC
Kotzebue MFCC Nome BSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

Third, our programs work with both adult victims of sexual assault and child victims of sexual exploitation and sexual abuse. Under this provision, the rape shield statute would essentially be repealed, a statute so important that just last year this very legislature voted unanimously to expand it in SB 22, recognizing the need to protect victims from introduction of evidence that is both irrelevant and a violation of a victim's right to privacy. Finally, regarding children of sexual exploitation and child sexual abuse, this provision would negate the testimonial protections provided by the Legislature and in our experience will lead to a decrease in reporting these insidious crimes when children do not continue to have the protections the legislature has provided.

This bill, if passed, would be not only be a frontal assault on victims' rights but in effect would eviscerate a victim's right to be treated with fairness, dignity and respect: principles so important to Alaskans that they enshrined them in our state's constitution.

I strongly urge you to not pass HB 315 out of committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Peggy Brown". The signature is fluid and cursive, with a large initial "P" and "B".

Peggy Brown, Executive Director

cc: Lisa A. Mariotti, Policy Director
House Judiciary Committee Members